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REMARKS

Claims 1 and 3-7 are pending in the present Application. Claims 1 and 5 have been amended leaving Claims 1 and 3-7 for consideration upon entry of the present Amendment. Support for the amendment to claim 1 may be found in paragraphs 40 and 43. No new matter has been introduced by these amendments. Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

Claim Rejections Under 35 U.S.C. § 112

Claims 1 and 3-7 stand rejected under 35 U.S.C. §112, first paragraph. In particular, the Examiner asserts that no express support can be found for the limitation regarding the thermoplastic elastomer and the physical property limitations of the overall composition. Applicants have amended Claim 1 to more distinctly claim the thermoplastic elastomer.

With regard to the physical property limitations of the composition, it is well established that in order to determine whether an application meets the "written description" requirement with respect to later-filed claims, the application need not describe the claimed subject matter in exactly the same terms as used in the claims, *In re Lukach*, 442 F.2d 967, 969, 169 U.S.P.Q. 795 (C.C.P.A. 1971). It must simply indicate to those of ordinary skill in the art that as of the filing date the applicant had invented what is now claimed. *Id.*, at 1563, 19 U.S.P.Q.2d at 1116; see *In re Wertheim*, 541 F.2d 257, 191 U.S.P.Q. 90, (C.C.P.A. 1976). It is well established that the presence of working examples is one such way that would indicate to one of ordinary skill in the art that the applicant had invented what is claimed. Applicants earnestly assert that the physical property limitations of Claim 1 are clearly supported by the examples.

Claims 1 and 3-7 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Applicants have amended Claim 1 to better describe the amount of the hydrogenated styrene block copolymer. Claim 5 has been amended to depend from Claim 1 instead of cancelled Claim 2.

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Claim Rejections Under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a)

Claims 1 and 3-7 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. 5,109,068 to Yamasaki et al, or, in the alternative, under 35 U.S.C. § 103(a), as allegedly unpatentable over Yamasaki et al. Applicants respectfully traverse these rejections.

Yamasaki discloses a composition containing 10 to 98% by weight of a styrene-based polymer having syndiotactic configuration with a racemic pentad of 30% or more, and 90-2% by weight of a polyphenylene ether having an intrinsic viscosity of 0.28 dL/g or more at 30°C in chloroform. The composition may optionally include a flame retarder and a rubber-like elastomer. Yamasaki is silent with regard to both the tensile strength of the composition and the molecular weight distribution of the rubber-like elastomer. Yamasaki does not teach or suggest a combination of an atactic styrene-based polymer and a syndiotactic styrene-based polymer as is instantly claimed.

To anticipate a claim, a reference must disclose each and every element of the claim. *Lewmar Marine v. Varient Inc.*, 3 U.S.P.Q.2d 1766 (Fed. Cir. 1987). Similarly, for an obviousness rejection to be proper, the Examiner must meet the burden of establishing a *prima facie* case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Establishing a *prima facie* case of obviousness requires that all elements of the invention be disclosed in the prior art. *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970).

Applicants respectfully assert that Yamasaki can neither anticipate nor make obvious the instant claims because Yamasaki does not disclose all elements of the claimed invention, namely the tensile strength of the composition, the molecular weight distribution of the rubber-like elastomer and the combination of an atactic styrene-based polymer and a syndiotactic styrene-based polymer.

Claims 6 and 7 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over Yamasaki et al. in view of U.S. Patent No. 3,383,435 to Cizek. Cizek teaches a composition comprising polyphenylene ether and atactic polystyrene and does not teach or discuss syndiotactic polystyrene. Accordingly Cizek does not teach or suggest a composition comprising both an atactic polystyrene and a syndiotactic polystyrene as is instantly claimed. Applicants respectfully request withdrawal of this rejection.

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Claims 1-7 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. 5,391,611 to Funayama et al, or, in the alternative, under 35 U.S.C. § 103(a), as allegedly unpatentable over Funayama et al. Applicants respectfully traverse these rejections.

Funayama et al. discloses a composition containing a styrenic polymer having a high degree of syndiotactic configuration, a rubbery polymer having a product of weight average molecular weight and styrenic monomer unit content of at least 30,000, a polyphenylene ether and a filler. The composition may optionally contain a flame retardant.

Funayama et al. does not teach or disclose including an atactic styrenic polymer in addition to the syndiotactic styrenic polymer as is instantly claimed. Accordingly Funayama et al does not provide adequate basis for a rejection under 35 U.S.C. § 102(b) or 35 U.S.C. § 103(a).

Claims 6 and 7 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over Funayama et al. in view of Cizek. As discussed above Cizek does not teach the combination of an atactic polystyrene and a syndiotactic polystyrene as instantly claimed. Applicants respectfully request withdrawal of this rejection.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance are requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 07-0862.

Respectfully submitted,

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